

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANNA REYES, *et al.*

Plaintiffs,

v.

COUNTY OF KERN,

Defendant.

Case No. 1:21-cv-01340-CDB

ORDER ON STIPULATION GRANTING
LEAVE TO AMEND COMPLAINT

(Doc. 25)

On September 7, 2021, Defendant County of Kern removed this action filed by Plaintiffs in Kern County Superior Court. (Doc. 1). Pending before the Court is the parties' stipulation for leave to file a first amended complaint. (Doc. 25). The proposed amendments add Christina Hungerford as named Plaintiff in her capacity as guardian *ad litem* and seek to anonymize the names of the Plaintiff minors (L.H.B. and P.H.B.).

Legal Standard

Where a party seeks to amend her complaint more than 21 days after an adverse party responds to the complaint, the party must first obtain the adverse party's consent or leave of court. Fed. R. Civ. P. 15(a)(1) & (2). "Rule 15(a) is very liberal" and a court should freely give leave to amend when "justice so requires." *AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3d 946, 951 (9th Cir. 2006); *see Chodos v. W. Publ. Co.*, 292 F.3d 992, 1003 (9th Cir. 2002) ("it is generally our policy to permit amendment with 'extreme liberality'" (citing *Morongo Band of Mission*

1 *Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir.1990)). Granting or denying leave to amend a
 2 complaint under Rule 15 is in the discretion of the court. *Swanson v. United States Forest Service*,
 3 87 F.3d 339, 343 (9th Cir. 1996). “In exercising this discretion, a court must be guided by the
 4 underlying purpose of Rule 15 to facilitate decision on the merits, rather than on the pleadings or
 5 technicalities.” *United States v. Webb*, 655 F.2d 977, 979 (9th Cir, 1981); *Chudacoff v. Univ. Med.*
 6 *Ctr.*, 649 F.3d 1143, 1152 (9th Cir. 2011) (“refusing Chudacoff leave to amend a technical pleading
 7 error, albeit one he should have noticed earlier, would run contrary to Rule 15(a)’s intent.”).

8 A court ordinarily considers five factors to assess whether to grant leave to amend: “(1) bad
 9 faith; (2) undue delay; (3) prejudice to the opposing party; (4) futility of amendment; and (5)
 10 whether the plaintiff has previously amended his complaint.” *Nunes v. Ashcroft*, 375 F.3d 805, 808
 11 (9th Cir. 2004).

12 Discussion

13 The Court has considered the *Nunes* factors and concludes based on the parties’ stipulation
 14 (Doc. 25) that good cause warrants extending to Plaintiffs leave to amend their complaint in the
 15 manner proposed.

16 With respect to the parties’ stipulated proposal to anonymize in the amended complaint the
 17 full names of the minor Plaintiffs, the Court notes that Plaintiffs arguably have waived the
 18 protection of Fed. R. Civ. P. 5.2(a) because they have made and continue to make public/non-sealed
 19 filings in which the minors are identified by their full names. *E.g.* Docs. 9, 10, 14, 25. *See* Rule
 20 5.2(h) (“A person waives the protection of Rule 5.2(a) as to the person’s own information by filing
 21 it without redaction and not under seal.”). *See also Elliott v. Solis*, No. 1:17-cv-01214-LJO-SAB,
 22 2017 WL 4811747, *1 n.1 (E.D. Cal. Oct. 24, 2017). Nevertheless, given that the parties have
 23 stipulated to anonymization of the minors’ full names in the proposed amended complaint, the
 24 Court finds good cause to grant the request.

25 Accordingly, for good cause appearing, IT IS HEREBY ORDERED:

- 26 1. Within seven days of entry of this Order, Plaintiffs shall file the first amended
 27 complaint (Doc 25-2) electronically as a standalone docket entry in this case. Upon
 28

1 filing, the first amended complaint will become the operative complaint in this action;
2 and

- 3 2. Pursuant to Fed. R. Civ. P. 15(a)(3), Defendants shall have 14 days following service
4 of the first amended complaint to file a response.

5 IT IS SO ORDERED.

6 Dated: February 14, 2023

7 
UNITED STATES MAGISTRATE JUDGE